IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 14250 of 2007(U)

PETITIONERS:

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1. BABU C.GEORGE, SON OF CHANDRATHIL GEORGE, AGED 60 YEARS, CHANDRATHIL HOUSE, PALARIVATTOM, ERNAKULAM.

2. MARIYAMMA BABU, W/O. BABU C.GEORGE, AGED 55 YEARS, CHANDRATHIL HOUSE, PALARIVATTOM, ERNAKULAM.

BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.A.SHANAVAS (KALLARA)

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO THE LOCAL SELF GOVERNMENT (M) DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CHIEF TOWN PLANNER, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

3. THE REGIONAL TOWN PLANNER, REGIONAL TOWN PLANNING OFFICE, ERNAKULAM.

4. THE CORPORATION OF KOCHI, REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE, KOCHI-11.

R1 TO R3 BY SENIOR GOVERNMENT PLEADER
SRI.K.J.MOHAMMED ANZAR

R4 BY ADV. SRI.K.ANAND SC, COCHIN CORPN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF THE MEMO DATED 2-11-2006 ISSUED BY THE 4TH RESPONDENT BY WHICH REJECTED THE APPLICATION FOR BUILDING PERMITS SUBMITTED BY THE PETITIONER ON 11-5-2006.

EXT.P2: TRUE COPY OF THE JUDGMENT DATED 31-1-2007 IN W.P.(C)NO.25478/2006 OF THIS HON'BLE COURT.

EXT.P3: TRUE COPY OF THE JUDGMENT DATED 28-2-2007 IN W.P.C.NO.6602/2007 OF THIS HONOURABLE COURT.

RESPONDENTS' EXHIBITS: NIL

//true copy//

P.S. To Judge

sk/-

K.M.JOSEPH, J.

W.P.(C) No.14250 of 2007 U

Dated this the 4th day of June, 2007.

JUDGMENT

The case of the petitioners, briefly, is as follows:

2. The petitioners are owners of 32.361 cents of property in Survey Nos.42/1 and 42/2 of Edappally Village in Ernakulam District. They have proposed to construct a seven storeyed building and submitted an application as well as a plan for the building permit strictly in accordance with the Building Rules, 1999. They have made the application on 11.5.2006 as per the FAR Ratio as provided under the Kerala Building Rules, 1999. However, it was rejected on the ground of subsequent amendment restricting and reducing the FAR. According to the petitioners, the matter is covered by Exts.P2 and P3 judgments of this court.

2. I heard learned counsel for the petitioners and learned counsel for the Corporation, besides learned Government Pleader.

3. Learned counsel for the respondents do not dispute that the matter is covered by Exts.P2

and P3 judgments. So, the petitioners are entitled to the benefit of the said judgments. The impugned order Ext.P1 shows that the application filed by the petitioners was rejected for two reasons:

(1) Violation of the F.A.R and

(2) Fire NOC is required.

4. Counsel for petitioner submits that FIRE NOC will be produced. In such circumstances, Ext.P1, insofar as it evidences rejection of the building permit sought for on the ground FAR violation, is quashed and the 4th respondent is directed to consider and take a decision afresh, in accordance with law, taking note of Exts.P2 and P3 judgments also.

The writ petition is disposed of as above.

Sd/-

(K.M.JOSEPH)

JUDGE

sk/

//true copy//

P.S. To Judge